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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION FIVE

In re R.A., a Person Coming Under the  
Juvenile Court Law.

SAN FRANCISCO HUMAN SERVICES  
AGENCY,

Plaintiff and Respondent,

v.

A.A.,

Defendant and Appellant.

A143843

(San Francisco County  
Super. Ct. No. JD14-3325)

A.A. appeals from a dispositional order in this proceeding under Welfare and Institutions Code section 300. She contends there was insufficient evidence to support the juvenile court's jurisdictional finding and insufficient evidence to support the removal of her daughter, R.A., from her custody. We will affirm.

**I. FACTS AND PROCEDURAL HISTORY**

**A. Petition and Detention**

In September 2014, respondent San Francisco Human Services Agency (Agency) filed a petition regarding R.A., who was then 12 years old. Pursuant to subdivisions (b) and (c) of Welfare and Institutions Code section 300, the petition alleged that R.A. was at substantial risk of serious physical harm due to the failure of A.A. (mother) to protect and

provide for her, and was suffering serious emotional damage and exhibiting mental health symptoms that mother failed to acknowledge or address.<sup>1</sup>

The Agency's Detention/Jurisdiction Report advised that mother refused to retrieve R.A. from school after the child had cut another student's hair (against the student's will) and threatened to kill herself if mother did not pick her up. When told that R.A. would be placed in foster care if mother did not come, mother replied that would be alright with her. A social worker then met with R.A., who confided that she could no longer own any pets, because she had killed her cat and bird. R.A. also remarked that there were aliens in the room. An assessment determined that R.A. liked to stab herself with pencils, eat inedible objects such as plastic, drink hand sanitizer and glue, and starve herself for days.

The Agency's report further advised that R.A. had been a patient at a psychiatric clinic in 2009 and had displayed multiple high-risk psychotic symptoms since at least March 2013. In July 2014, she had consumed paper and hand sanitizer, mentioned suicide, and was the victim of bullying; when apprised of these events, mother nonchalantly responded, "Kids will be kids." After the July 2014 incident, mother declined to attend the first Team Decision Making meeting. In August 2014, a therapist informed mother that R.A. was at high risk for psychosis and could display more "red flag behaviors" if untreated, but mother "appeared to be in denial" and declined mental health services. In September 2014, mother told a social worker that R.A. could stay in foster care " 'til she's 18" or live with her alleged father, who resided overseas and had no relationship with R.A.

On September 24, 2014, the juvenile court ordered R.A. detained pursuant to section 319 and placed her in foster care.

#### **B. Agency's Disposition Report**

The Agency filed its disposition report in October 2014, recommending that R.A. be declared a dependent of the court, removed from mother's custody, and placed in

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<sup>1</sup> All statutory references hereafter are to the Welfare and Institutions Code.

foster care during the dependency proceedings. The report asserted that mother claimed not to have any mental health history, but she thought R.A.'s father might be bipolar. Mother acknowledged there was "no discipline" in her house and "nothing" happened to R.A. if she got into trouble at home. She also claimed that R.A. was threatening to kill herself just to get attention and had not displayed any of the reported psychological symptoms. Mother advised that she intended to attend nursing school from 8:00 a.m. to 4:00 p.m. starting in January 2015 and would not have any income. Meanwhile, R.A.'s foster parent reported that R.A. was still having outbursts, talked to herself, regularly ate paper, and hid her used feminine products rather than throwing them away.

The Agency recommended that R.A. remain in foster care, that mother receive services including parent education and family therapy, and that mother visit R.A. regularly. The Agency concluded that R.A.'s "safety has been compromised due to the mother's inability and unwillingness to take [R.A.]'s mental health problems seriously and follow through with professional recommendations for treatment." Mother needed to improve her ability to understand and acknowledge R.A.'s symptoms in order to ensure the child's safety; in particular, mother would have to take seriously any threats of suicide.

On October 28, 2014, the court granted mother supervised visitation and granted discretion to the Agency to begin unsupervised visits. The matter was continued for a further settlement conference and jurisdictional hearing.

#### C. Agency's Request for Psychotropic Medication for R.A.

On November 24, 2014, the Agency applied to the court for permission to administer psychotropic medication to R.A. The request was made due to a psychiatrist's determination that R.A. was showing unusual symptoms (illusions, delusions of demonic activity, decreased social functioning, and tearing up plastic bags and putting pieces over her eyes) that had been worsening for two years.

#### D. Settlement Conference and Stipulation to Jurisdiction

On November 25, 2014, mother was present in court and represented by counsel, and indicated her willingness to have R.A. return to her care. The parties reached an agreement regarding the basis of jurisdiction under section 300, proposing to strike the allegations under subdivision (b) and modify the subdivision (c) language to allege that mother's efforts were inadequate to address R.A.'s serious mental health needs. The court stated: "The petition is amended as reflected on its face in the court's file and we're proceeding today by way of *submission on the part of the mother to jurisdiction* by way of a negotiated settlement." (Italics added.) The court asked mother's attorney whether mother had been advised of her rights (concerning a stipulation to jurisdiction) or whether the court should provide the advisement; mother's attorney represented that mother had already been advised and had no questions. The court obtained mother's personal waiver of her rights and confirmation that the waiver was made freely and voluntarily. The court then found a factual basis for the submission and further found that R.A. was subject to its jurisdiction under subdivision (c) of section 300. The court's minute order confirmed the amendment of the petition and mother's submission to the amended allegations.

As set forth in the court file, the following jurisdictional allegation was sustained after agreement of the parties: "The child is suffering serious emotional damage as evidenced by the mental health symptoms she exhibits. The mother's efforts to address the child's mental health needs were not adequate."

The matter was continued to December 2014 for a contested hearing as to "Disposition only."

#### E. Disposition Hearing

The Agency filed an addendum report in advance of the disposition hearing to request that mother undergo a psychological evaluation. The Agency found that mother has a "flat affect" and "scripted speech," and observed that she still had a "complete lack of understand[ing] and ability to articulate concerns regarding her daughter's very serious

mental health issues and odd behaviors.” Mother continued to insist that R.A. was acting like a normal 12-year-old, and had made statements like “every teen says they will commit suicide.”

The disposition hearing commenced on December 12, 2014. The court noted that jurisdiction had already been resolved; mother’s counsel agreed, stating that “my client, obviously we submitted to jurisdiction.” The October 2014 disposition report and December 2014 addendum report were admitted into evidence.

### 1. Social Worker’s Testimony

Social worker Jessica Rose testified that R.A. should remain in foster care so she could stabilize while mother improved her ability to provide the necessary support. R.A.’s symptoms were worsening—she was hallucinating and experiencing delusions on a daily basis and was at “high risk of self-harm”—and she required placement at the highest level of intensive treatment foster care (ITFC). If she were returned to mother’s home, R.A. would no longer qualify for ITFC and would lose many of the services on which she was depending. Furthermore, mother had not demonstrated that she could ensure R.A.’s safety. She would not be able to supervise R.A. during the day due to her own school obligations. And she still appeared incapable of recognizing R.A.’s symptoms: when R.A. began to hallucinate and talk to herself directly in front of mother during a recent supervised visit, for example, mother did not react. Mother had characterized R.A.’s suicidal statements as mere attention-seeking behavior, and had told R.A. that foster care was a form of “punishment” for expressing suicidal thoughts out loud, which threatened to make intervention even more difficult. In addition, mother appeared to lack the ability to ensure R.A. would take her medication. Although mother had recently acknowledged for the first time that the symptoms ascribed to R.A. might be true, Rose continued to believe that R.A. should remain in ITFC placement since mother appeared adept at saying what she thought people expected her to say.

On cross-examination, the social worker acknowledged that “wraparound” services would be available in mother’s home, that mother was cooperative and had been

diligent in making appointments for R.A., and that mother was supportive of R.A. taking medication. The social worker also confirmed that mother had previously sought treatment for R.A. from various providers, but had been rejected or referred to other agencies.

## 2. R.A.'s Statement

R.A. stated that she wanted to return home, understood she needed to take medication and attend therapy, and was willing to do so.

## 3. Mother's Testimony

Mother claimed that R.A.'s mental health problems only "started in April of this year" and the situation was a "recent development" for which she "got help immediately." She also described the services she pursued for R.A. beginning in April 2014.

Mother acknowledged that she had missed R.A.'s symptoms initially, noting that R.A. did not eat paper or drink hand sanitizer at home and denied doing so. But, she testified, she had since spoken to a new psychiatrist (Dr. Karen Finch), and she now understood R.A.'s symptoms and R.A.'s diagnosis of psychosis and schizophrenia. Mother asserted that she was committed to facilitating R.A.'s treatment and medication, following professional advice, and educating herself further, and she claimed to have the resources to obtain help when needed. If R.A. ever communicated any desire to commit suicide, she would call the Child Crisis line right away.

## 4. Counsel's Arguments

Counsel for R.A. and the Agency agreed it would be best to proceed with an out-of-home placement for R.A. with overnight visits, because returning R.A. to mother immediately could be overwhelming for both R.A. and mother.

## 5. Court's Ruling

The court found that mother had not taken adequate steps to address R.A.'s mental health needs and that R.A. should remain in foster care.

On December 17, 2014, the juvenile court ordered that R.A. remain in foster care, granted mother reunification services, and set a hearing date for the six-month review.

This appeal followed.

## II. DISCUSSION

Mother contends the evidence was insufficient to support dependency jurisdiction under section 300, subdivision (c), and insufficient to support removal from mother's custody under section 361, subdivision (c). We consider both contentions in turn.

### A. Jurisdiction

#### 1. Waiver or Forfeiture

“As a general rule, a party is precluded from urging on appeal any point not raised in the trial court.” (*In re Richard K.* (1994) 25 Cal.App.4th 580, 590 (*Richard K.*)) And under the doctrine of invited error, “when a party by its own conduct induces the commission of error, it may not claim on appeal that the judgment should be reversed because of that error.” (*In re G.P.* (2014) 227 Cal.App.4th 1180, 1193.)

Here, mother expressly agreed to jurisdiction. The Agency's petition had recommended that the juvenile court assume jurisdiction over R.A. The Agency apprised the court that the parties had agreed on jurisdictional language based on specified modifications to the petition. The court then stated it was proceeding “by way of submission on the part of the mother *to jurisdiction* by way of a *negotiated settlement*,” and neither mother nor her counsel objected. (Italics added.) At the next hearing, mother's counsel agreed that mother had “obviously . . . submitted to jurisdiction.”

By submitting to jurisdiction without offering any evidence or argument, mother waived her right to challenge the juvenile court's jurisdiction on appeal. (*Richard K.*, *supra*, 25 Cal.App.4th at p. 590 [parent's submission on social worker's recommendation waived right to appeal disposition].) Indeed, mother submitted to jurisdiction “by way of a negotiated settlement,” by which she acquiesced to jurisdiction in exchange for the Agency's agreement that three allegations would be stricken and the remaining allegation under section 300, subdivision (c) would be modified. She did so knowingly and

voluntarily, after being advised of her rights by her attorney and personally waiving them in court. “By accepting the negotiated settlement—and its benefits—[mother] implicitly waived [her] right to challenge the true finding . . . .” (*In re N.M.* (2011) 197 Cal.App.4th 159, 167.)

Mother’s reliance on *In re Tommy E.* (1992) 7 Cal.App.4th 1234 (*Tommy E.*) is misplaced. *Tommy E.* pertained to a parent’s submission on a particular report, which merely reflected an agreement that the court may consider the report as the only evidence on the issue. (*Id.* at p. 1238.) In that instance, the parent “acquiesces as to the state of the evidence yet preserves the right to challenge it as insufficient to support a particular legal conclusion.” (*Richard K.*, *supra*, 25 Cal.App.4th at p. 589.) Where the parent submits not on a report, but on the social worker’s *recommendation*, the parent acquiesces in the “social worker’s recommended findings and orders,” which “dispels any challenge to and, in essence, endorses the court’s issuance of the recommended findings and orders.” (*Ibid.*)

Mother argues that her agreement to the juvenile court’s jurisdiction is nonetheless invalid because the judge did not comply with the procedure set forth in rule 5.682 of the California Rules of Court. Under rule 5.682(b), the court must advise the parent of the rights to a hearing on the issues raised by the petition, to assert any privilege against self-incrimination, to confront and to cross-examine witnesses, and to compel the attendance of witnesses. If the parent elects to admit the allegations, the parent must do so personally, and the court must find on the record that the parent understands the nature of the allegations and the direct consequences of the admission, and that he or she understands and waives his or her rights. (Cal. Rules of Court, rule 5.682(c).) After the admission or submission, the court must record certain findings in its order, including that the parent understands the nature of the conduct alleged in the petition and the possible consequences of an admission or submission, and that the admission or submission is freely and voluntarily made. (Cal. Rules of Court, rule 5.682(f).)

The juvenile court complied with these requirements, except that it accepted the representation of mother’s counsel that mother had been advised of her rights rather than

advising mother of those rights personally. To the extent this constitutes error, it would be harmless under the circumstances. (See *In re Monique T.* (1992) 2 Cal.App.4th 1372, 1377-1379 [where juvenile court did not explain mother's rights as required or obtain her personal waiver, it was error to accept a waiver based only on counsel's representations; however, the error was harmless because mother was represented by counsel and never claimed she was pressured to waive her rights, and the evidence overwhelmingly supported the finding that mother was unable to care for her daughter].)

At any rate, we will proceed to the merits of mother's jurisdictional argument.

## 2. Section 300, subdivision (c)

Section 300, subdivision (c) allows a juvenile court to take jurisdiction over a child who is "suffering serious emotional damage, or is at substantial risk of suffering emotional damage . . . as a result of the conduct of the parent or guardian *or* who has no parent or guardian capable of providing appropriate care." (Italics added.) "The statute thus sanctions intervention by the dependency system in two situations: (1) when parental action or inaction causes the emotional harm, i.e., when parental fault can be shown; and (2) when the child is suffering serious emotional damage due to no parental fault or neglect, but the parent or parents are unable themselves to provide adequate mental health treatment." (*In re Alexander K.* (1993) 14 Cal.App.4th 549, 557 (*Alexander K.*).)

The amended allegation under section 300, subdivision (c) in this case—that "mother's efforts to address the child's mental health needs were not adequate"—falls squarely within the *second* category. Cases in this second category do not require a finding of parental fault or neglect, but merely that the parent is unable to provide adequate mental health treatment. (See *Alexander K.*, *supra*, 14 Cal.App.4th at p. 557; *In re Shelley J.* (1998) 68 Cal.App.4th 322, 330 (*Shelley J.*) [substantial evidence to

support finding under § 300, subd. (c), where parents were “not particularly attuned to the needs of their daughters”].)<sup>2</sup>

### 3. Sufficiency of the Evidence

Substantial evidence supported a finding that R.A. faced a substantial risk of emotional damage and mother’s effort to address her mental health needs was inadequate, such that R.A. had no parent or guardian capable of providing appropriate care. (See § 300, subd. (c).) According to the evidence in the record as of the time of the jurisdictional hearing—that is, the Agency’s reports—mother was dismissive of R.A.’s behavior and did not recognize it as a sign of a mental health problem. In particular, the Detention/Jurisdictional Report advised that mother refused to pick up R.A. from school after she threatened to kill herself, and a therapist had advised mother that R.A. was at high risk for psychosis and could display more “red flag behaviors” if untreated, but mother “appeared to be in denial” and declined mental health services. According to the disposition report—filed before the jurisdictional hearing—mother acknowledged there was “no discipline” in her home and claimed that R.A. was threatening to kill herself merely to get attention and had not displayed any of the reported psychological symptoms.

Mother points us to her testimony at the *dispositional* hearing, to the effect that she diligently took R.A. to appointments, had pursued mental health services, and promised to call the crisis team if R.A. threatened suicide again. But this evidence is immaterial, since it was produced at the contested disposition hearing in December 2014,

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<sup>2</sup> Mother’s argument that parental fault and causation must be proven is incorrect. Her reliance on *In re Brison C.* (2000) 81 Cal.App.4th 1373 and *Alexander K.*, *supra*, 14 Cal.App.4th 549 is misplaced, since those cases analyzed evidence under the first clause of section 300, subdivision (c), rather than the second. (See *In re Brison C.*, at pp. 1375, 1379; *Alexander K.*, at pp. 557-558.) The other cases on which she relies are also inapposite, because they involved a different subdivision of section 300. (*In re R.T.*, review granted June 17, 2015, S226416; *In re Precious D.* (2010) 189 Cal.App.4th 1251; *Cynthia D. v. Superior Court* (1993) 5 Cal.4th 242, 245.)

not at the hearing at which the court assumed jurisdiction in November 2014. The evidence at the contested hearing was for disposition purposes only.

Mother further contends the evidence was insufficient to support the jurisdictional findings because the Agency did not prove she was severely emotionally damaged as a result of mother's conduct. Because there was sufficient evidence that mother was unable to provide adequate mental health treatment, however, it was unnecessary for the court to find parental fault or causation. (*Alexander K.*, *supra*, 14 Cal.App.4th at p. 557; *In re Shelley J.*, *supra*, 68 Cal.App.4th at p. 330.)

Substantial evidence supported the juvenile court's assumption of jurisdiction.<sup>3</sup>

#### B. Removal of R.A. from Mother

Mother contends the juvenile court's decision to remove R.A. from her care at the dispositional hearing was not supported by clear and convincing evidence. We disagree.

Section 361, subdivision (c) authorizes the juvenile court to remove a minor from the physical custody of his or her parent if it finds clear and convincing evidence that there "would be a substantial danger to the physical health, safety, protection, or physical or emotional well-being of the minor if the minor were returned home, and there are no reasonable means by which the minor's physical health can be protected without removing the minor from the minor's parent's or guardian's physical custody."

Substantial evidence supported the juvenile court's finding that R.A. was at risk and that removal was necessary because mother was not prepared to address R.A.'s needs. At the time of the disposition hearing, mother still had not learned to recognize

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<sup>3</sup> Even if mother were correct that a showing of parental fault and causation were necessary, there was substantial evidence to support such findings, both at the time of the jurisdictional hearing and at the time of the disposition hearing. Numerous people had told mother about R.A.'s behavior for years, mother appeared to be in denial, and her inattention to the symptoms caused them to become worse. Her comment that foster care was "punishment" for R.A. expressing her suicidal thoughts put R.A. at further risk and made intervention more difficult. As the Agency explained, "[R.A.]'s safety has been compromised *due to* the mother's inability and unwillingness to take [R.A.]'s mental health problems seriously and follow through with professional recommendations for treatment." (Italics added.)

R.A.'s symptoms. She could not ensure that R.A. would take her medication or provide the structure and consistency that R.A. needed to control her psychosis. She had not even progressed to overnight visits. She had been dismissive when R.A. said she was suicidal, and by telling R.A. not to express her suicidal feelings, she created a risk that R.A. might commit suicide before anyone could intervene.

Mother argues there was insufficient evidence that there were no reasonable means of protecting R.A. besides removal, because R.A. could have been provided intensive services in mother's home, including therapy and 2 or 3 hours of "wraparound" services. Mother does not explain how this could be a reasonable alternative, however, since she was going to be in school full time. Moreover, if R.A. were returned to mother's custody and left the foster care system, R.A. would lose access to the intensive treatment services she was depending on, including 27 to 39 hours per week of clinical support counseling, 4 to 6 hours per week of case management services, 2 to 4 hours per week of program supervision, and 48 to 60 hours per week of respite support. Even with these services, R.A. was still experiencing daily symptoms.

Mother also argues that by the time of the disposition hearing "it appeared clear that [she] had gained the skills necessary to care for her child in her home." Not so. Although mother had verbalized an understanding of R.A.'s diagnosis and needs and promised to cooperate with therapy and medication plans, she had not demonstrated that she could actually apply the skills needed to deal with R.A.'s care. To the contrary, she continued to miss obvious symptoms of R.A.'s mental health problems.

Substantial evidence supports the court's finding, by clear and convincing evidence, that returning R.A. to mother would pose a substantial danger to R.A. and there are no reasonable means by which R.A. could be protected without removal.

### III. DISPOSITION

The disposition order is affirmed.

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NEEDHAM, J.

We concur.

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JONES, P.J.

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SIMONS, J.